

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

WADE ALAN KNIGHT

Case No. 3:22-CV-00433-ART-CSD

V

Plaintiff,

ORDER

ELKO COUNTY, *et al.*,

Defendants.

11 Pro se Plaintiff Wade Alan Knight brings this action under 42 U.S.C. § 1983
12 for Eighth and Fourteenth Amendment claims related to exposure to asbestos,
13 toxic black mold, and fungus at Elko County Detention Center (ECDC). Before
14 the Court is the Report and Recommendation (“R&R” or “Recommendation”) of
15 United States Magistrate Judge Craig S. Denney (ECF No. 47), recommending
16 that the Court grant Defendants’ Motion for Summary Judgment (ECF No. 40).
17 To date, no objection to the R&R has been filed. Plaintiff also never opposed
18 Defendants’ Motion for Summary Judgment, even after the Court sua sponte
19 granted him more time to do so. (ECF No. 45.) For these reasons, and as
20 explained below, the Court adopts the R&R, grants the motion for summary
21 judgment, and enters judgment in favor of the Defendants.

The Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party fails to object to a magistrate judge’s recommendation, the Court is not required to conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985); see also *United States v. Reyna-Tapia*, 328 F.3d 1114, 1116 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings and recommendations is required if, but *only* if, one

1 or both parties file objections to the findings and recommendations.”) (emphasis
2 in original); Fed. R. Civ. P. 72, Advisory Committee Notes (1983) (providing that
3 the Court “need only satisfy itself that there is no clear error on the face of the
4 record in order to accept the recommendation.”).

5 Because there is no objection, the Court need not conduct de novo review
6 and is satisfied Judge Denney did not clearly err. Here, Judge Denney
7 recommends granting summary judgment on the claims because during his
8 deposition, Plaintiff could not identify any evidence that he was exposed to
9 asbestos, toxic black mold, or fungus. (ECF No. 40-3 at 9:25-10:07; 14:24-
10 15:12.) Plaintiff also testified that he has never seen a doctor who informed him
11 that he suffered any physical injuries as a result of the alleged exposure. (*Id.* at
12 8:02-17.) Plaintiff further could not identify any physical symptoms or injuries
13 from the alleged exposure. (*Id.* at 8:18-23.) Plaintiff also could not provide any
14 evidence linking any alleged symptoms to any asbestos or black mold exposure.
15 (*Id.* at 9:20-24.) Thus, there is no genuine issue of material fact with regards to
16 whether Plaintiff faced an objectively substantial risk of serious harm, so
17 Defendants Narvaiza and Parry are entitled to summary judgment. With respect
18 to the remaining defendant, Elko County, Plaintiff has not provided any policy
19 or other evidence to support finding the existence of municipal liability, so the
20 Court will grant summary judgment for Elko County.

21 Having reviewed the R&R and the record in this case, the Court is satisfied
22 that Judge Denney did not clearly err and adopts the R&R in full.

23 It is therefore ordered that Judge Denney’s Report and Recommendation
24 (ECF No.47) is accepted and adopted in full.

25 ///

26 ///

27 ///

28 ///

It is further ordered that Defendants' Motion for Summary Judgment (ECF No. 40) is granted.

The Clerk of Court is directed to enter judgment accordingly and close this case.

DATED this 9th day of August 2024

ANNE TRAUM
UNITED STATES DISTRICT JUDGE